

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Edwin R. Pagliai,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0490
Parcel No. 200/00590-005-001

On February 23, 2012, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Edwin R. Pagliai was self-represented and submitted evidence in support of his petition. Assistant County Attorney Ralph Marasco, Jr. represented the Polk County Board of Review at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Edwin R. Pagliai is the owner of a residential, single-family property located at 7252 NE Berwick Drive, Ankeny, Iowa. The property is a one-story home built in 1959, and has 1192 square feet of living area on the main level. The basement is 1192 square feet with 400 square feet of average-plus finish. There is also a 200 square-foot enclosed porch, an 80 square-foot wood deck, an 80 square-foot open porch, and a 200 square-foot patio. The site is a total of 9.052 acres, with 5.685 of those acres in forest reserve.

Pagliai protested to the Polk County Board of Review regarding the 2011 assessment of \$246,500, which was allocated as follows: \$120,500 in land value and \$126,000 in improvement value.

This total value was reduced by \$58,080 for the acres in forest reserve, resulting in a total 2011 assessment of \$188,420. His claim was based on the following grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); and 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b). Pagliai asserted the correct total value was \$185,000.

The Board of Review denied the protest.

Pagliai then appealed to this Board reasserting his claims.

On his protest form to the Board of Review, Pagliai listed a single property as an equity comparable. The property was 6960 NE Berwick Drive. Pagliai listed the tax district/parcel number, the street address, and the assessment on his protest form. However, it is noted the assessment he reports, \$130,100, is the 2009 assessment not the 2011 assessment for this property. Other than listing this property on his petition, Pagliai did not make any equity arguments. His evidence and testimony was based solely on market value for a claim of over-assessment. On his appeal to this Board, Pagliai plainly states, "I believe my home is over-assessed for this area."

At hearing, Pagliai offered seven properties he believes supports his position that his property is over-assessed. They are all located in the same general development as his property. The following is a brief summary of his comparables.

Address	Style	Total Living Area (TLA)	Year Built	Site Size	Sale Date	Sale Price	2011 Total Assessment	AV/SF ¹
6855 NE Berwick	1 Sty	2060	1996	1.202	9/1/2011	\$245,000	\$260,100	\$126.26
4061 NE 70th Ave	2 Sty	2580	2000	16.100	N/A	N/A	\$212,180	\$82.24
6960 NE Berwick	1 Sty	988	1967	0.976 ²	1/16/2012	\$110,000	\$148,470 ³	\$150.27
7000 NE Berwick	1 Sty	2030	1980	0.720	N/A	N/A	\$190,000	\$93.60
7004 NE Berwick	1 Sty	1464	1971	2.440	1/16/2008	\$295,000	\$224,400	\$153.28
7008 NE Berwick	1 Sty	1038	1970	2.819	N/A	N/A	\$217,200	\$209.25
7048 NE Berwick	Split Level	1024	1971	2.800	N/A	N/A	\$187,900	\$183.50
7252 NE Berwick	1 Sty	1192	1959	3.367 ⁴	N/A	N/A	\$188,420 ⁵	\$158.07

We note the property located at 4061 NE 70th Avenue is classified agricultural. While it could be used as a market comparable, the land and building are assessed differently than a residentially classified property. This would explain the discrepancy in the assessed value per square foot of this property compared to the subject property.

The remaining properties are all one-story or split-level homes located in the immediate vicinity of the subject property. Only two are recent sales: 6855 NE Berwick and 6960 NE Berwick. No other information is known about the sales.

6855 NE Berwick is nearly twice as large as the subject, as well as being a newer home. We do not find this sale to be reasonably similar, especially without adjustments for differences. Additionally, we note this sale was from an estate and it is unknown if this impacted the sales price.

6960 NE Berwick sold considerably less than its current assessment; it is unknown why there is a significant discrepancy between the sales price and the assessment. This property is the most similar to the subject in style, size, and age property; additionally it has a portion of its site in forest reserve similar to the subject. Excluding the portions of each site in forest reserve, the property at 6960 NE

¹ Note, some of the properties listed have outbuildings or differences in basement finish that is included within the total assessed value per square foot.

² Excludes forest reserve.

³ Total Assessed value excluding forest reserve.

⁴ Excludes forest reserve.

⁵ Total Assessed value excluding forest reserve.

Berwick has an unadjusted sales price per square foot of \$111.37 and an unadjusted assessed value per square foot of \$150.27, compared to the subject's assessed value per square foot of \$158.07. We again note there is no explanation for the disparity between the sales price and assessment; and both the sales price and assessed values per square foot calculations are unadjusted for differences. As such, while this property is the most similar to the subject, we are hesitant to rely solely on this analysis.

Excluding NE 70th Avenue, which is classified agricultural, the remaining properties have total assessed values per square foot ranging from \$82.24 to \$209.25, with a median of \$139.94. However, the three largest properties have the lowest assessed values per square foot. It is typical for the assessed value per square foot to decrease as the size increases. Excluding these properties, due to being nearly twice as large as the subject, the assessed value per square foot for the remaining properties ranges from \$153.28 to \$209.25, with a median of \$156.40, compared to the subject's assessed value per square foot of \$158.07. This very general analysis would indicate the subject property is not over-assessed.

Pagliai also offered several photographs of his site and surrounding views. He claims the views of an abutting mobile home park limits the value of his property. There is no market evidence in the record to support this assertion, although we agree it may impact the desirability of the subject property or the number of potential buyers. Because this was a concern for Pagliai, and we believe the externality could influence value, we recommend the Board of Review consider an on-site inspection to determine if there are grounds for applying an obsolescence adjustment to the site in the future.

The Board of Review did not offer any evidence.

Based on the foregoing, we find the preponderance of evidence does not demonstrate the subject property is inequitably assessed or assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing


“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The Iowa Supreme Court has interpreted “representative number of comparable properties” to be more than one property. *Maxwell v. Shiver*, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). Pagliai provided one property he considered to be an equity comparable; however, no adjustments were made for differences and he did not provide a ratio analysis. Pagliai did not show inequity under the tests of *Maxwell* or *Eagle Foods*.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Pagliai did not offer any evidence of the fair market value of his property to support this claim.

THE APPEAL BOARD ORDERS the assessment of Edwin R. Pagliai's property located at 7252 NE Berwick Drive, Ankeny, Iowa, of \$188,420, as of January 1, 2011, set by the Polk County Board of Review, is affirmed.

Dated this 30 day of April, 2012


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

Edwin R. Pagliai
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APPELLANT

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REPRESENTATIVE FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-30</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Other
Signature	